



Ball State University

University Teleplex

DOCKET FILE COPY ORIGINAL

March 5, 1997

RECEIVED
MAR 13 1997
FCC MAIL ROOM

Federal Communications Commission
Office of the Secretary
1919 M Street N.W.
Room 222
Washington DC 20554

**RE: Comments for the Notice of Proposed Rulemaking
Closed Captioning of Video Programming
MM Docket No. 95-176**

Dear Secretary William F. Caton:

Ball State University, pursuant to Section 1.415 of the rules, hereby files these comments in response to the Commission's Notice of Proposed Rulemaking, released January 17, 1997, concerning the adoption of regulations for closed captioning of video programming.

These comments strongly urge the Commission to consider the position of educational institutions and their captioning resources and requirements when formulating their upcoming regulations.

In accordance with the Americans with Disabilities Act and other existing federal legislation, Ball State provides captioning of all televised courses that are taken by students with hearing impairments. In addition, we provide some closed captioning for our public television station and for entrepreneurial clients at negotiated rates. We also provide closed captioning of some educational video resources that are viewed in our classrooms.

No. of Copies rec'd 024
List ABCDE



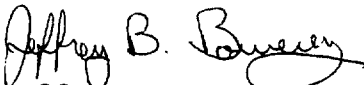
Ball State University

University Teleplex

In short, these comments address our concerns about the feasibility of substantially increasing the amount of closed captioning that we already provide, and we address the undue burden that it might impose on our operations. Ball State feels that the ADA and other existing federal legislation effectively allocates the relatively scarce captioning resources available to our university without the necessity for further regulation.

We invite the Commission to contact Ball State University if they have any further questions or concerns regarding the issues herein addressed.

Respectfully Submitted,


Jeffrey B. Bowers

Enclosures
JBB

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED
MAR 13 1997
FCC MAIL ROOM

In the Matter of

Closed Captioning and Video
Description of Video
Programming

)
)
)
)
)

MM Docket No. 95-176

To: The Commission

COMMENTS

Ball State University
University Teleplex
Attn: Mr. Jeff Bowers
2000 University Avenue
Muncie, IN 47306

(317) 285-2766

Date: March 5, 1997

Table of Contents

	<u>Paragraph</u>
I. INTRODUCTION AND SUMMARY.....	1
II. BACKGROUND.....	4
A. Disability and Technology Issues at Ball State.....	4
B. Broadcast Captioning Policy at Ball State.....	7
C. Non-Broadcast Educational Captioning.....	10
III. BSU CAPTIONING COST ESTIMATES.....	14
A. Cost of BSU's Current Captioning Policy.....	14
B. Cost Estimates for Full Captioning.....	18
IV. AVAILABILITY OF CAPTIONING IN EDUCATIONAL SETTINGS....	24
III. PROPOSED PROGRAMMING CLASS EXEMPTIONS.....	37
A. Introductory Comments.....	37
B. Cable Access Programming.....	39
C. Radio Simulcasts.....	48
D. College and High School Sports Programming.....	55
IV. CONCLUSION.....	60

I. INTRODUCTION AND SUMMARY

1. Ball State University files these comments on March 5, 1997, in FCC's Notice of Proposed Rulemaking MM Docket No. 95-176.

2. Ball State University is a medium-sized, publicly-funded university that is centrally located in Muncie, Indiana with a current enrollment of about 20,000 students. Ball State is a university with a strong commitment to provide innovations in technology, such as captioning, that allow our students to have effective and equal access to information.

3. We are writing these comments to address what we perceive as a deficiency of comments from postsecondary institutions concerning the Commission's upcoming captioning regulations. In particular, Ball State is concerned about the effects of a captioning mandate on the supply of realtime captioners who are employed by universities. We note that many institutions already extensively use realtime captioning (RTC), and we are concerned that any additional broadcast captioning mandates could dwindle the already scarce supply of realtime captioners available to us. We note the additional regulations could have a profound impact not only on our captioning policies for broadcasts, but also for our non-broadcast, classroom uses of captioning as well.

4. We strongly urge the Commission to consider the following when implementing its rules for captioning: (1)

Current university policies concerning both broadcast and non-broadcast captioning and the adopted rules' potential effects;

(2) The availability of captioning at educational settings, and in particular the supply of skilled realtime captioning (RTC);

(3) Possible class exemptions for educational access channels, high school and college-produced sports programming, and radio simulcasts on cable channels.

II. BACKGROUND

A. Disability and Technology Issues at Ball State

5. Although the use of technology has enhanced many aspects of our teaching programs, it has also presented special challenges and opportunities for our students with disabilities. Some of the new technology that has become available has aided students with disabilities in their classroom activities. On the other hand, many new educational delivery systems have often proved challenging for Ball State to provide equal access and opportunity for our students with disabilities.

6. Ball State has received national recognition for its adaptive and assistive computer technology. Recordings for the Blind recently placed Ball State among the top five universities in the nation for providing adaptive and assistive technology to people with disabilities. Ball State has several key departments that are involved in reaching this standard of accessibility, including Disabled Student Development, the Adaptive Computer Technology Program, and the Ball State University Teleplex. The

University Teleplex includes university-owned public television and radio stations, a college educational access channel, a student-operated access channel, and distance learning products.

B. Broadcast Captioning Policy at Ball State

7. In 1994, Ball State's Director of Disabled Student Development met with university committees to discuss the effects of the American with Disabilities Act on our distance education programs broadcast on IHETS. IHETS is the Indiana Higher Education Telecommunications System, a consortium of distance education providers across Indiana that provides access to televised courses for academic credit through satellite transmission and cable access channels. Many IHETS offerings are broadcast through our university cable access channel. Discussions led to the convening of an ADA Compliance Taskforce to address disability issues for IHETS-member institutions, including Ball State. During this period, the Taskforce was aware of no other distance learning providers considering these accommodation issues.

8. At the same time, Ball State also developed its own internal policy for dealing with telecommunications access for students and staff. Ball State believes that the ADA, at its most basic level, demands equal or effective alternative access to educational offerings and public services to persons with disabilities. In the case of Teleplex activities, our challenge was to keep within the spirit of the ADA while often being

constrained by technology and cost issues.

9. Ball State's policy is to provide realtime captioning (RTC) for all televised courses that are taken by students with hearing impairments. This is only done per the student's request, however, since the cost of captioning all educational broadcasting at Ball State would be prohibitive. In addition, Ball State provides some broadcast closed captioning for its public television station, WIPB, and for its entrepreneurial clients at negotiated rates. Projects that are typically closed captioned include those programs that are locally produced that are broadcast on a regional or national level.

C. Non-broadcast Captioning in the Classroom

10. An important factor to consider when looking at trends in educational captioning is the growing use of RTC in a classroom setting. This is live captioning done on a notebook computer for one student during a class lecture. During the class, the captioner sits next to the student and captions the discussion. Many postsecondary educators and administrators feel that existing federal legislation such as the ADA may at times require the use of classroom captioning, although there is by no means a consensus of opinion concerning this issue.

11. The cost for this kind of captioning varies greatly, but it appears to be significantly less than the cost associated with broadcasted RTC. We have estimates that show that the cost is approximately \$20-120 an hour, and many reporters require

portal-to-portal expenses as well as equipment from the university. Equipment expenses vary between \$6000 to \$10000 per captioner.¹

12. Although Ball State is not currently providing classroom RTC, we do believe we have the obligation to provide closed captioning of videos that are viewed in class for students with hearing impairments. This includes captioning of both locally-produced video and materials from outside distributors. An important consideration when captioning materials from outside sources is the securing of copyright, which is essential for captions to be dubbed onto video. Pursuing copyright clearance is often very time consuming for university personnel. At present, Ball State has achieved only mixed results in obtaining copyright clearance from copyright holders.

13. The university also captions all locally-produced promotional videos that are shown to students and the general public. Most of these programs were shown in classroom settings. We also provide closed captioning of many video entrepreneurial projects that are never broadcast, and Ball State charges a negotiated rate for the captioning of these productions. Captioning of these projects is only done per the client's request.

III. BSU CAPTIONING COST ESTIMATES

A. Cost of BSU's Current Policy

14. No students have requested distance learning RTC during the two years that Ball State has had it available. However, Ball State has done a significant amount of off-line video captioning for classroom and promotional purposes. During the fiscal year of 1995-1996, Ball State captioned 16.75 hours of video for these purposes. None of this programming was broadcast.

15. During the same fiscal year, Ball State captioned a significant amount of programming for entrepreneurial clients. At the present time, all of this captioning has been done off-line to ensure high accuracy and quality. During the '95-'96 fiscal year, Ball State produced 16.56 hours of these programs. Ball State received \$18,542.58 in revenue for these projects. The vast majority of this revenue came from projects that were broadcast on public television stations on a regional or national level. We have met with limited success in generating revenue for local projects.

16. In total, Ball State captioned approximately 32 hours of taped video programming using off-line captioning techniques in '95-'96, only half of which was broadcasted material. The cost of providing this captioning, which includes labor, equipment, and depreciation, was \$41,300. Ball State did not provide RTC for any activities during this period.

17. Although the 32 hours of video programming represents a significant amount of labor hours, it is small compared to the amount of labor that would be involved if Ball State were required to caption all of its broadcasted video programming.

B. Cost Estimates for Full Captioning

18. If no captioning exemptions were to be granted for our broadcast programming, 2,476 hours of captioning would have been required during the fiscal year of 1995-1996. The vast majority of this programming would require RTC because most of it is produced very rapidly or shown live. If we assume that it costs \$120 to \$1200 an hour to caption programs in realtime,² it would have cost Ball State \$297,120 - \$2,971,200 to caption this material. The budget for all of the programming that would require this captioning was \$647,710. At the lowest cost estimates, RTC cost would equal an additional 45% of the total available budget. At the highest cost estimate, captioning would equal 458% of total available budgets. We believe that this would require at least an additional hiring of 3-5 realtime captioners on a full-time basis.

19. This captioning would include a significant amount of programming from Ball State's educational access channel, WBSU. WBSU is responsible for airing our distance learning programming and other educational offerings. This channel is aired on our city cable system which is subject to Commission regulations. When no programming is scheduled, WBSU runs a community affairs

calendar with a simulcast of WBST, Ball State's public radio station.

20. Generally, distance learning programs are shown live on WBSU, and most other local programs are produced rapidly. Because these programs are produced in such a timely manner, it seems likely that RTC would be required. We estimate that WBSU would require 1,927 hours of RTC per year. Out of this total, 1,144 hours would be required for captioning the radio simulcast. The 1,144 hours of simulcast includes only radio programs that are primarily verbal in content.

21. WIPB, Ball State's public television station, would require approximately 141 hours of additional captioning if no exemptions for its programming are granted by Section 713. The possibility of additional off-line captioning seems more likely with WIPB, since programming is generally produced with longer timetables.

22. There are two other areas where captioning might be required by Section 713. Both are student-produced educational and entertainment channels. WCRH is an entertainment and information channel that is produced by Ball State students on a voluntary basis without university compensation. WCRH productions are produced rapidly and would require RTC. We estimate that 208 hours per year of RTC would be required if no exemptions are granted.

23. Ball State also operates the Burris channel, a local

high school educational channel that airs on the city cable system. Programming is again student-oriented in nature, and is often produced entirely by the student staff. The Burris channel produces local high school sports and community events programming. Again, RTC would be a necessity since programs are produced very quickly or aired live. We estimate that the Burris channel would require 200-400 hours of RTC a year.

IV. THE AVAILABILITY OF CAPTIONING IN EDUCATIONAL SETTINGS

24. Preliminary research concerning the availability of captioning resources in educational settings indicates that the supply of captioning, and in particular realtime captioning, is very limited.

25. Within the state of Indiana, we estimate that there are approximately four to six court reporting students at the present time that would be capable of captioning realtime material.³ We also estimate that four students become available every year to provide stenography services in Indiana. We are basing this estimate on the number of students that graduate at Indiana court reporting schools as well as on students that have not graduated but would be advanced enough to possibly caption in realtime.⁴ The actual number of students available per year for RTC is probably less than this, however, since many of these students choose to work in traditional court reporting positions upon graduation.

26. At present, there are only two full-time, off-line

caption editors working at universities in Indiana. Most of their work load involves captioning educational videos according to off-line captioning techniques.

27. Among Indiana universities, classroom RTC seems to be considerably more common than broadcast RTC. We estimate that there are approximately six to seven classroom captioners working full time in Indiana in at least three different universities.

28. Most of the evidence we have found concerning national trends for educational captioning is anecdotal in nature, but it does indicate a shortage of captioners in educational settings. We are aware of only one other university that employs a full-time, off-line caption editor outside of the Indiana area.

29. On a national level, classroom RTC seems also to be more prevalent than broadcast RTC. One survey indicates that one to three students use classroom RTC per institution.⁵ Some institutions are reporting severe difficulties in finding captioners, and we have received reports that it is virtually impossible to find classroom RTC on a regular basis within some states because most are working for major broadcasters and in courtroom settings.⁶ Educators have expressed concerns to Ball State of a paradigm shift that might cause more of a shortage of classroom RTC than there already is if additional captioning regulations were mandated.⁷

30. The NCRA recently reported to Ball State that only 102 of its members self-disclosed as being "captioners" out of a

total of 22,270.⁸ This is a slight increase from 83 members who reported in 1996.⁹

31. The NCRA figures may be particularly accurate as an indicator of available RTC, since the association places no certification restrictions on their estimate that could result in an inaccurately low prediction. Their estimate is based on NCRA applications where members have listed themselves as "captioners" without any preconditions.

32. There is some evidence to suggest that the number of reporting and captioning students has declined over the past few years instead of increasing. The NCRA reports a decrease in the number of NCRA-member training schools for court reporters over the last few years.¹⁰ In the Midwest, five to six large schools with student bodies of at least fifty have closed in recent years. We note that some of these students in the Indiana area have transferred to other schools, while many others dropped out because there were no schools within their vicinity.

33. While there appears to be a relatively small pool of reporting students and professional captioners to choose from, it is arguable that many reporters will become available for educational captioning if there is a shift away from traditional court reporting jobs. Arguably, new technologies such as video and audiotaping could become more common in the courtroom and conceivably replace court reporters, which would allow for an influx of stenographers into educational settings.

34. At the present time, however, the evidence of such a job trend is mixed. The NCRA reports that they have found no national trends indicating a decline in court reporting positions,¹¹ although Ball State notes that many reporters in the Indiana area are concerned that such a trend may occur.

35. Even if the potential dynamics for such a trend would develop, there is some reason to doubt that many traditional reporters would be capable of providing the necessary skills for RTC. This is because traditional court reporting allows for the editing of transcripts before a finished product is created, whereas RTC allows for no editing and requires significantly more stenography skill. Ball State notes that it can take many years of captioning experience before extremely successful RTC results can be obtained. In other words, if a job trend develops away from court reporting to captioning, many older reporters that are working in courtroom settings may require significant job retraining before they will be able to perform RTC.

36. Additionally, many reporters appear to be very uneasy about switching from traditional court reporting to RTC. Most reporters view RTC as the most demanding of all reporting professions. Through court reporting and training school contacts, Ball State has learned that many reporters would choose to work in another profession entirely than practice RTC.

III. PROPOSED PROGRAMMING CLASS EXEMPTIONS

A. Introductory Comments

37. The previous evidence has suggested to Ball State that it is highly likely that both the cost and scarcity of educational captioning will increase dramatically if additional regulations are imposed. We note that there is a high degree of variance in the cost of both classroom captioning and video captioning. Ball State feels that it is likely that captioners will tend to charge toward the high end of cost estimates if there is a significant increase in demand for their services. It also seems likely that classroom realtime captioners will begin to charge rates that are closer to their broadcasting counterparts, since the skills and much of the equipment involved is very similar. We feel that if we receive no exemptions from a captioning mandate, it would be extremely difficult, if not impossible, for many institutions to provide RTC both for classrooms and for broadcast because of the costs and scarcity of captioning. In the case of Ball State, we most likely would cease to air most of our local programming on cable systems as well as reduce some of our captioning for non-broadcast purposes.

38. The following sections comment specifically on exemptions we feel should be granted under Section 713. We suggest that the following exemptions be granted for programming to ensure the continued growth and development of educational captioning.

B. Cable Access Programming

39. The Commission states that imposing a captioning

requirement may place an economic burden on the producers of PEG access channels, but they also feel that some PEG programming is of high interest to the public.¹²

40. While Ball State strongly agrees that the PEG programming on cable systems is highly valuable to the general public and deserves some consideration for captioning, we also feel that the economic burden that would be placed on universities to caption all of their PEG programming would be excessive.

41. As noted above, our PEG channel, WBSU, airs a large amount of distance learning programming. In the '95-'96 fiscal year, we aired approximately 700 hours of live distance learning programming on WBSU. The budget for this programming was \$212,000. Captioning according to estimated realtime rates would cost between \$84,840 and \$848,400.

42. Other programming on WBSU that is locally produced has minimal or no budgeting and is often produced by students. During the same fiscal year, WBSU aired 116 hours of locally-produced educational programming besides distance learning. The budget for producing these projects was \$12,373.55. Captioning according to estimated realtime rates could cost between \$13,920 to \$139,200.

43. Ball State feels that under Title II of the ADA it has an obligation to provide closed captioning for its distance learning programs on WBSU if a student with impairment requests

it. We do feel, however, that an attempt to caption all of WBSU's programming would be too economically burdensome, and we believe that many other universities with cable distance learning programs on educational access channels will agree with this. Ball State feels that, in this case, the ADA is an effective tool to ensure appropriate accommodation of its distance learning programs.

44. If a captioning mandate would be imposed on programming for this channel, it is likely that all of our distance learning programming would be taken off the air. This would deny students and the general public the opportunity to view educational programming through cable systems. It would also deny many of our students the educational experience of producing television programming.

45. In addition, we note that any attempt to add captioning to our high school access channel would be too economically burdensome. We note that this programming receives minimal budgeting. The channel is occasionally able to get underwriting for some televised high school basketball games, but this is generally only \$50 per game. Some of these games are live and would require RTC. Based on the limited budget available, we feel RTC would be inordinately expensive.

46. As mentioned previously, Ball State also operates a student-produced access channel on our cable system for the university. Generally, programming does not have a budget on

this channel, since the programs are produced by students on a voluntary basis. One of the programs is a live news shows that is produced daily. At least two hours a week of this program would need to be RTC, and an additional two hours a week would need to be produced either in realtime or off-line. Because of budgetary considerations, local programming on this channel would likely be cut if a captioning mandate is required.

47. Based on the above information, Ball State suggests that the Commission seriously consider a captioning exemption for PEG channels, or at least for college and high school-produced channels. If the Commission feels that an exemption should not be granted in this instance, then we suggest a waiver process for exemption be adopted that is highly streamlined and easily manageable by program producers and providers. The managers of our PEG programming air a large variety of programming that is produced by independent educational program owners, and it is necessary that they be able to make management decisions about what to air on their channels very quickly. It is likely that Ball State personnel would have to be realigned in an effort to implement Commission procedures, and this could result in administrative inefficiencies if waiver procedures are cumbersome.

B. Radio Simulcasts

48. Ball State airs a considerable amount of radio simulcasts on our cable access channels when there is no other

programming being aired. Typically, these simulcasts are programming from our local public radio station. This is usually heard with graphical community affairs or university notices displayed.

49. It does not appear likely in this case that the program owners such as National Public Radio would be able to add captioning at the point of origin to their shows since they are radio entities, and we are unaware of any technology that could be used to encode video captions onto radio signals. The responsibility for captioning would most likely fall on the video providers of the simulcast.

50. On WBSU we aired approximately 1,144 hours of radio simulcast during the fiscal year of '95 to '96. As previously mentioned, during this period the total amount of locally-produced material that would require captioning without any exemptions was 1,927. The 1,144 hours of simulcast represent 59.3% of all programming that would require captioning.

51. This estimate of captioning for simulcasts only includes hours of programming that are primarily verbal in content, and includes such programming as "All Things Considered" and "Morning Edition." It does not include instrumental music programming.

52. Because most of the programming is broadcast soon or immediately after its reception from National Public Radio, RTC of the material would probably be necessary in most instances.

These simulcasts have no budget, staff, or equipment currently available to provide captioning, so realtime expenses would obviously be extremely excessive.

53. Because of these constraints, we feel that RTC of radio simulcasts would be very difficult or impossible to achieve considering the current supply of captioners and the costs involved.

54. We have not researched the amount of air time that other television channels use radio simulcast, but this might be an area that the Commission would want to consider for possible exemption after further exploration.

C. College and High School-Produced Sports Programming

55. Ball State produces a significant amount of basketball games for both the high school and the college level. Ball State produces 10 Ball State basketball games a year. Our high school educational access channel produces five games a year, and two of these are live. If there is a captioning mandate placed on college and high school sports, Ball State believes that RTC would be necessary for at least 12 games a year. Ball State feels that an exemption should be granted for this programming for many reasons.

56. As with many other types of college-produced programming, Ball State feels that the costs involved for realtime would be excessive. Ball State basketball programs had a budget in 1994 of \$11,300 per game. RTC for a two-hour sports

broadcast would cost between \$240-\$2400 according to published rates.¹³ Ball State feels that the RTC costs would likely fall near the upper end of this range for several reasons. Costs are likely to be high due to the difficulty of providing quality sports RTC, since this type of programming often seems to demand the highest skill level of captioning. Also, the travel costs that would be involved with traveling to a remote location or using long distance lines for remote RTC would probably increase the expense of the service.

57. The budget for our high school sporting events is even smaller than our college games. Ball State notes that these games are funded by underwriting of less than \$50 per game. Production staff generally consists of unpaid high school students who are used for producing, editing, and shooting.

58. In addition to the costs involved for captioning sports broadcasts, Ball State has a number of other concerns with implementing a captioning mandate for these games. Ball State has often noted the poor quality and accuracy of sports RTC, with much of it poor in comparison to other realtime efforts.

59. This may be because of fast dialogue, and also because line 21 technology is only capable of transmitting at a relatively slow baud rate, which means that captions in rapid dialogue situations often tend to lag far behind. Ball State notes that much sports RTC seems very confusing because it lags far behind the commentary, or it is not highly accurate. In many

instances, sports RTC appears to be self-defeating because it covers up existing graphics and scores. Ball State suggests that a graphic with a running score might be a better alternative to captioning in some instances where the captioners are not highly trained.

IV. CONCLUSION

60. Ball State believes that the FCC's proposed rules for captioning could have a dramatic impact on its operations. We strongly urge the Commission to consider many educational institutions' reliance on realtime captioning and the potential effects of FCC mandates on the supply of educational captioning.

61. Ball State notes that the requirements of the Americans with Disabilities Act and other existing federal legislation requires appropriate accommodation for persons with disabilities. While we acknowledge that institutions have different perspectives on the implementation of the ADA, Ball State believes that it has an obligation to provide broadcast captioning in certain circumstances. As previously stated, Ball State provides realtime captioning for all televised courses that are taken by students with hearing impairments. Ball State notes, however, that the costs of providing closed captioning for all of its televised programming would be prohibitive. Ball State believes that the ADA effectively allocates captioning in educational settings while keeping under consideration its relative scarcity and cost.

Ball State University

MM Docket No. 95-176

WHEREFORE, for the foregoing reasons, Ball State University urges the Commission to adopt rules governing closed captioning programming which are consistent with the views expressed herein.

Respectfully submitted,

BALL STATE UNIVERSITY

By: 

Jeffrey B. Bowers

BALL STATE UNIVERSITY
University Teleplex
Attn: Mr. Jeff Bowers
2000 University Avenue
Muncie, IN 47306